

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	: Shuji SHIKANO et al.	Group Art Unit : 2622
Appl. No.	: 10/597,250 (U.S. National Stage of PCT/JP2005/001326)	Examiner : W. Negron
I.A. Filed	: January 31, 2005	Confirmation No. : 8324
For	: IMAGE PICKUP APPARATUS, IMAGE PICKUP LENS, AND DATA WRITING METHOD TO IMAGE PICKUP LENS	

**RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION  
REQUIREMENT WITH TRAVERSE**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop AMENDMENT  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

In response to the Examiner's Restriction Requirement and Election Requirement dated October 16, 2009, setting forth a one-month period for response to expire November 16, 2009, Applicants elect, with traverse, the invention identified by the Examiner as Group I, claims 1-9, drawn to an image pickup apparatus and/or an image pickup lens. Applicants further elect the Species B, corresponding to figure 2 and claims 7-9, with traverse. Claims 7-9 are considered to be readable on the invention of Species B, corresponding to figure 2.

Applicants respectfully traverse the Restriction and Election Requirements. Although the Examiner has couched the requirements for restriction and election as lacking "unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1",

the Examiner has failed to follow the procedure set forth in MPEP § 1893.03(d) by (a) listing “the different groups of claims” and (2) explaining “why each group lacks unity with each other group (*i.e.*, why there is no single inventive concept) specifically describing the unique special technical feature in each group”. The Examiner has recognized that the present application is a national stage (filed under 35 U.S.C. § 371) application and has made the requirement purportedly under PCT Rule 13.1, but has not, in fact, established a lack of unity of invention of the claims of the present application. As stated in MPEP § 1893.03(d), “[a] group of inventions is considered to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature”.

Applicants submit that claims 1-10 of the present application define only a single inventive concept, that is, of providing image pickup including determining and manipulating optical magnification data. The “inventions” identified by the Examiner, *i.e.*, in Groups I and II, and in Species A and B, are disclosed as different elements of this inventive concept. However, they are still part of the single general inventive concept of providing image pickup including determining and manipulating optical magnification data. While the Examiner has identified a plurality of “inventive concepts” descriptive of the embodiments of the invention, the question is not whether the embodiments of the invention differ, but rather whether the embodiments share common features. Thus, since it is clear that there is only a single inventive concept defined in claims 1-10, the Examiner is respectfully requested to withdraw the requirement for lack of unity of invention.

Additionally, it would appear that the search for the groups identified by the Examiner would be coextensive or at least significantly overlap. That is, if the Examiner were to perform a search for the embodiment of Group I and Species B, there would not appear to be a serious burden in

continuing the examination of the other embodiments, especially since all of the claims are directed to providing image pickup including determining and manipulating optical magnification data.

For the foregoing reasons, it is submitted that the Restriction and Election Requirements (requirements for lack of unity of invention) in this application are improper and it is respectfully requested that they be reconsidered and withdrawn.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Shuji SHIRANO et al.

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November 10, 2009  
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